

1 ROBERT E. KREBS, CA BAR NO. 57526

rkrebs@thelen.com

2 CHRISTOPHER L. OGDEN, CA BAR NO. 235517

cogden@thelen.com

3 PAPOOL S. CHAUDHARI, CA BAR NO. 241346,

pchaudhari@thelen.com

4 THELEN REID BROWN RAYSMAN & STEINER LLP

225 West Santa Clara Street, Suite 1200

5 San Jose, CA 95113-1723

Tel. 408.292.5800, Fax 408.287.8040

6 RONALD F. LOPEZ, CA BAR NO. 111756

rflopez@thelen.com

7 THELEN REID BROWN RAYSMAN & STEINER LLP

8 101 Second Street, Suite 1800, San Francisco, CA 94105-3606

Tel. 415.371.1200, Fax. 415.371.1211

9 Attorneys for Defendants TECHNOLOGY PROPERTIES LIMITED and ALLIACENSE
10 LIMITED.

11 CHARLES T. HOGE, CA BAR NO. 110696

choge@knlh.com

12 KIRBY NOONAN LANCE & HOGE, LLP

350 Tenth Avenue, Suite 1300

13 San Diego, CA 92101

Tel. 619.231.8666, Fax. 619.231.9593

14 Attorney for Defendant PATRIOT SCIENTIFIC CORPORATION

15 **UNITED STATES DISTRICT COURT**
16 **NORTHERN DISTRICT OF CALIFORNIA**
17 **SAN FRANCISCO DIVISION**

18 HTC CORPORATION and HTC
19 AMERICA, INC.,

Plaintiffs,

20 v.

21 TECHNOLOGY PROPERTIES
22 LIMITED, PATRIOT SCIENTIFIC
23 CORPORATION, and
ALLIACENSE LIMITED,

Defendants.

CASE NO. 08-CV-00882 JL

**DEFENDANTS' NOTICE OF MOTION AND
MOTION (1) TO DISMISS ON GROUNDS OF
LACK OF SUBJECT MATTER JURISDICTION,
(2) IN THE ALTERNATIVE TO TRANSFER TO
THE EASTERN DISTRICT OF TEXAS, AND (3)
IN THE ALTERNATIVE, TO STAY PENDING
APPEAL IN A RELATED CASE INVOLVING
THE SAME ISSUES**

Date: June 4, 2008

Time: 9:30 a.m.

Place: Courtroom F, 15th Floor

Judge: Hon. James Larson

1 TO PLAINTIFFS ASUSTEK COMPUTER, INC. AND ASUS COMPUTER
2 INTERNATIONAL AND THEIR COUNSEL OF RECORD:

3 PLEASE TAKE NOTICE that on June 4, 2008 at 9:30 a.m., or as soon thereafter as the
4 matter may be heard, at 450 Golden Gate Ave., San Francisco, CA 94102, Courtroom F, 15th
5 Floor, Defendants TECHNOLOGY PROPERTIES LIMITED, PATRIOT SCIENTIFIC
6 CORPORATION, MCM PORTFOLIO LLC, and ALLIACENSE LIMITED will move, and
7 hereby move, (1) for an order dismissing this action for lack of subject matter jurisdiction; (2) in
8 the alternative, for an order transferring this action to the Eastern District of Texas; or (3) in the
9 alternative, for an order staying this action pending an appeal involving the same issues that will
10 arise in this action.

11 This Motion is made pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure and
12 28 U.S.C. § 1404(a), on the grounds that subject matter jurisdiction is not present and not
13 warranted under the Court's discretion and therefore the case should be dismissed, that in the
14 alternative, the present forum is not convenient and should be transferred to the Eastern District of
15 Texas, and that in the alternative, the court should exercise its discretion to grant a stay pending
16 the appeal of a related action, in the interest of judicial economy.

17 This Motion is based on this Notice of Motion and Motion, the supporting Memorandum,
18 the Declarations of Ronald F. Lopez, Roger Cook, and Mike Davis including their exhibits, all
19 pleadings and records on file in this action, any other matter of which the Court may take judicial
20 notice, and any other written and oral argument and authorities that may be presented to the Court
21 on this matter.

Respectfully submitted,

Dated: April 25, 2008

By:

/s/

ROBERT E. KREBS
RONALD F. LOPEZ
CHRISTOPHER L. OGDEN
PAPOOL S. CHAUDHARI
of THELEN REID BROWN RAYSMAN & STEINER LLP,
Attorneys for Defendants TECHNOLOGY PROPERTIES
LIMITED and ALLIACENSE LIMITED.

CHARLES T. HOGE
of KIRBY NOONAN LANCE & HOGE, LLP,
Attorneys for Defendant PATRIOT SCIENTIFIC
CORPORATION.

1 ROBERT E. KREBS, CA BAR NO. 57526
rkrebs@thelen.com

2 CHRISTOPHER L. OGDEN, CA BAR NO. 235517
cogden@thelen.com

3 PAPOOL S. CHAUDHARI, CA BAR NO. 241346,
pchaudhari@thelen.com

4 THELEN REID BROWN RAYSMAN & STEINER LLP
225 West Santa Clara Street, Suite 1200
5 San Jose, CA 95113-1723
Tel. 408.292.5800, Fax 408.287.8040

6 RONALD F. LOPEZ, CA BAR NO. 111756
rflopez@thelen.com

7 THELEN REID BROWN RAYSMAN & STEINER LLP
8 101 Second Street, Suite 1800, San Francisco, CA 94105-3606
Tel. 415.371.1200, Fax. 415.371.1211

9 Attorneys for Defendants TECHNOLOGY PROPERTIES LIMITED and ALLIACENSE
10 LIMITED.

11 CHARLES T. HOGE, CA BAR NO. 110696
choge@knlh.com

12 KIRBY NOONAN LANCE & HOGE, LLP
350 Tenth Avenue, Suite 1300
13 San Diego, CA 92101
Tel. 619.231.8666, Fax. 619.231.9593

14 Attorney for Defendant PATRIOT SCIENTIFIC CORPORATION

15 **UNITED STATES DISTRICT COURT**
16 **NORTHERN DISTRICT OF CALIFORNIA**
17 **SAN FRANCISCO DIVISION**

18 HTC CORPORATION and HTC
AMERICA, INC.,

19 Plaintiffs,

20 v.

21 TECHNOLOGY PROPERTIES
LIMITED, PATRIOT SCIENTIFIC
22 CORPORATION, and
ALLIACENSE LIMITED,

23 Defendants.
24

CASE NO. 08-CV-00882 JL

**[PROPOSED] ORDER GRANTING
DEFENDANTS' NOTICE OF MOTION AND
MOTION (1) TO DISMISS ON GROUNDS OF
LACK OF SUBJECT MATTER JURISDICTION,
(2) IN THE ALTERNATIVE TO TRANSFER TO
THE EASTERN DISTRICT OF TEXAS, AND (3)
IN THE ALTERNATIVE, TO STAY PENDING
APPEAL IN A RELATED CASE INVOLVING
THE SAME ISSUES**

25 Date: June 4, 2008

26 Time: 9:30 a.m.

Place: Courtroom F, 15th Floor

27 Judge: Hon. James Larson

28 **[PROPOSED] ORDER GRANTING [PROPOSED] ORDER GRANTING DEFENDANTS' NOTICE OF MOTION AND MOTION (1) TO
DISMISS ON GROUNDS OF LACK OF SUBJECT MATTER JURISDICTION, (2) IN THE ALTERNATIVE TO TRANSFER TO THE
EASTERN DISTRICT OF TEXAS, AND (3) IN THE ALTERNATIVE, TO STAY PENDING APPEAL IN A RELATED CASE INVOLVING
THE SAME ISSUES**

1 Having reviewed Defendants Technology Properties Limited, Patriot Scientific
2 Corporation, MCM Portfolio LLC, and Alliacense Limited's Motion to Dismiss on Grounds of
3 Lack of Subject Matter Jurisdiction, or in the Alternative to Transfer to the Eastern District of
4 Texas, or in the Alternative to Stay Pending Appeal in a Related Case Involving the Same Issues,
5

6 IT IS HEREBY ORDERED that this case be dismissed due to lack of subject matter
7 jurisdiction; or in the alternative,
8

9 IT IS HEREBY ORDERED that this case be transferred to the Eastern District of Texas; or
10 in the alternative,
11

12 IT IS HEREBY ORDERED that this case be stayed pending the appeal in related Case No.
13 2:05-cv-00494-TJW.
14

15 DATED THIS _____ day of _____, 2008
16

17 By: _____
18 HON. JAMES LARSON
19 UNITED STATES MAGISTRATE JUDGE
20
21
22
23
24
25
26
27
28